

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE MUNICIPAL DERIVATIVES
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

City of Los Angeles v. Bank of America,
N.A., et al.; No. 08-10351
City of Riverside, et al. v. Bank of America,
N.A., et al.; No. 09-10102
City of Stockton v. Bank of America, N.A.,
et al.; No. 08-10350
Contra Costa County v. Bank of America,
N.A., et al.; No. 09-1197
County of San Diego v. Bank of America,
N.A., et al.; No. 09-1195
County of San Mateo v. Bank of America,
N.A., et al.; No. 09-1196
County of Tulare v. Bank of America, N.A.,
et al.; No. 10-0628
Los Angeles World Airports v. Bank of
America, N.A., et al.; No. 10-0627
The Redevelopment Agency of the City of
Stockton, et al. v. Bank of America,
N.A., et al.; No. 10-0630
Sacramento Municipal Utility District v.
Bank of America, N.A., et al.;
No. 09-10103;
Sacramento Suburban Water District v.
Bank of America, N.A., et al.;
No. 10-0629

MDL No. 1950

Master Docket No. 08-2516 (VM) (GWG)

DECLARATION OF DENNIS
HOLCOMB IN SUPPORT OF

PUBLIC ENTITY PLAINTIFFS'
SUPPLEMENTARY BRIEF IN
OPPOSITION TO ANTITRUST
DIVISIONS' MOTION FOR
STAY OF DISCOVERY

DECLARATION OF DENNIS HOLCOMB

I, Dennis Holcomb, hereby declare as follows:

1. I am a Principal Energy Trading Specialist in the Energy Trading and Contracts Department of Plaintiff Sacramento Municipal Utility District ("SMUD"). This declaration is made in support of Public Entity Plaintiffs' Supplementary Brief in Opposition to Antitrust Division's Motion for Stay of Discovery. I have personal knowledge of the facts stated in this declaration, and if called upon to testify, I could and would competently testify to the following.

2. On January 27, 2010, I received a telephone call from Aarnoud van Weelderen, my counterpart at J. Aron & Company ("J. Aron"), the financial trading branch of Defendant The Goldman Sachs Group, Inc. ("Goldman Sachs"). Until January 27, 2010, SMUD engaged in financial gas, basis and power trading with J. Aron, and physical power trading with Goldman Sachs.

3. During the January 27, 2010 conversation, Mr. Van Weelderen told me that he was advised by the company's senior legal advisors to inform SMUD that until the Municipal Derivatives case against Goldman Sachs is resolved, J. Aron and Goldman Sachs would immediately cease doing business with SMUD. J. Aron was an important financial trading counterparty for SMUD. I have trades with J. Aron going back to April 19, 2001, with a total notional value in excess of \$158 million.

4. Commodities transactions of the type that involved J. Aron and SMUD are tape recorded. I listened to my tape recorded conversation with Mr. Van Weelderen that was recorded on January 27, 2010, and compared it to the attached certified transcript. Mr. van Weelderen's voice sounds quite similar to my voice on the tape, and the transcriber misidentified us as we spoke during the beginning of the conversation, which I corrected on the transcript by identifying

myself with my initials "D.H.", and Mr. van Weelderen with his initials, "A.V." Otherwise, the material portions of our transcribed conversation concerning Goldman Sachs and J. Aron's notice that they would cease doing business with SMUD accurately identifies me and Mr. van Weelderen. A true and correct copy of the certified transcript of the January 27, 2010 recording of my telephone conversation with Mr. van Weelderen, including my corrections on page 2, is attached hereto as **EXHIBIT A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 10 day of May, 2010 at Sacramento, California.

By _____


DENNIS HOLCOMB

EXHIBIT A

Sacramento Municipal Utility District
Dennis Holcomb Telephone Conference

**CERTIFIED
COPY**

AUDIO FILE TRANSCRIPTION

TRANSCRIBED BY: KERI VEARE, CA CSR 11220, ID CSR 675,
WA CCR 3033, RPR

M E R R I L L C O R P O R A T I O N

TRANSCRIPTION

--oOo--

DENNIS HOLCOMB: Dennis Holcomb.

SPEAKER 2: Oh, it is him. ~~DA~~DENNIS HOLCOMB: ~~DA~~ ^{ARNOLD} (Unintelligible), how are you?

SPEAKER 2: Hey, how you doin'?

DENNIS HOLCOMB: Good.

~~DA~~ ^{DA} ~~SPEAKER 2:~~ Hey, I wanted to get back in touch with you regarding the call spread that we were talking about. I finally got feedback from my management and they said thanks but no thanks.

#2 ~~DA~~ ^{AV.} ~~DENNIS HOLCOMB:~~ Okay.

~~DA~~ ^{D.H.} ~~SPEAKER 2:~~ Keep an eye on it, which actually, the good news was they liked the concept. They thought it was very creative and they liked it. They just -- if the market -- if you can put a tickler on that, if there is such a thing, to have the -- let me know if that spread comes in a bit.

#2 ~~DA~~ ^{AV.} ~~DENNIS HOLCOMB:~~ Okay.

~~DA~~ ^{D.H.} ~~SPEAKER 2:~~ Because they -- they're actually interested; just didn't like the \$8 million too much.

#2 ~~DA~~ ^{AV.} ~~DENNIS HOLCOMB:~~ Yeah. Yeah. Well, most people don't.

SPEAKER 2: Yeah. The other thing that's the

challenge that we might have, and I'm as always -- I always appreciate talking to you, but I found out like apparently there's some lawsuit that's going down on the interest rate side? And I believe that we're involved in a class action suit against some of the banks. Yeah, I think we're one of those banks.

DENNIS HOLCOMB: Oh, okay.

SPEAKER 2: So I've been told that we can't execute with you guys --

DENNIS HOLCOMB: Okay.

SPEAKER 2: -- until that gets sorted out.

DENNIS HOLCOMB: Okay.

SPEAKER 2: So I just wanted to give you that feedback. I mean, it's like a different product. It sounds like it's all like some weird class action that's being brought on -- like you guys were backed into it or sounds like it was a whole bunch of nonsense. But essentially --

DENNIS HOLCOMB: If it's what I'm thinking of, it's regarding interest rates.

SPEAKER 2: Interest rates?

DENNIS HOLCOMB: Yeah. And apparently it came out of testimony from a B of A trader that said that they had been manipulating the market, if it's the one I'm thinking of, and then they pointed their fingers

at -- you know, they took down some other folks on their way down. And then our attorneys, of course, latched onto that and formed up a class action suit to go after the impacted parties, so if that's the one you're referring to, I've heard about that much about it.

SPEAKER 2: Yeah. And you know more than I do because I didn't even know where it was sourced from. Only thing I knew that it was just a -- yeah, it was on interest rates.

DENNIS HOLCOMB: Okay.

SPEAKER 2: We had an internal call with all the partners and they basically -- because obviously you had two trades that you were looking at doing, so I kind of escalated it and said I heard some rumors about this. What's going on? And all of a sudden I've got like my -- one of my senior legal people on and some other people and they're just like, you know, it would be -- we'd prefer it if you did not execute while this is still in the process.

DENNIS HOLCOMB: Is that all business or just the term of this deal that was a problem?

SPEAKER 2: I think it's kind of all business.

DENNIS HOLCOMB: Okay.

SPEAKER 2: Unfortunately.

DENNIS HOLCOMB: Hmm. All right. Well,

that's unfortunate, but I guess --

SPEAKER 2: Yeah.

DENNIS HOLCOMB: -- I understand at one level.

SPEAKER 2: So either way, still more than happy to come up with ideas and walk through stuff, and I'll always do that for you.

DENNIS HOLCOMB: Okay.

SPEAKER 2: Never going to be a problem. If you have some issue and you want like get at something thoughtful around it, I'm more than happy to spend the time for you, Dennis. I always will be.

DENNIS HOLCOMB: That was a good one. I appreciate that. That was more of an intellectual exercise.

SPEAKER 2: Yeah, it's kind of fun to do it too, right?

DENNIS HOLCOMB: Yeah.

SPEAKER 2: I find it more interesting.

DENNIS HOLCOMB: Very fun, yeah.

SPEAKER 2: Okay.

DENNIS HOLCOMB: Let me ask this: Is this -- is this power gas financial and physical or --

SPEAKER 2: Yeah, it is.

DENNIS HOLCOMB: So the whole book is shut right now?

SPEAKER 2: Yep.

DENNIS HOLCOMB: Okay. Well, sorry to hear that.

SPEAKER 2: Yeah. Well, hopefully, you know -- hopefully it just causes people to just get stuff resolved, fixing it than later.

DENNIS HOLCOMB: Yeah. Actually, they know the time line on the litigation, so I'll have to check on that.

SPEAKER 2: Okay. Fair enough.

DENNIS HOLCOMB: All right. Thanks.

SPEAKER 2: Okay.

DENNIS HOLCOMB: Bye.

SPEAKER 2: Bye.

(End of audio file)

1 STATE OF IDAHO)
2) SS: REPORTER'S CERTIFICATE
3 COUNTY OF KOOTENAI)
4

5 I, KERI VEARE, do hereby certify:

6 That I am a notary public for the State of
7 Idaho and Washington, that I am a Certified Shorthand
8 Reporter of the State of Idaho, License No. 675; of the
9 State of California, License No. 11220; and of the State
10 of Washington, License No. 3033;

11 That the foregoing pages 1 through 5 are a
12 true and correct transcription of the audiotaped
13 proceedings furnished to me, except where
14 noted "unintelligible" or "inaudible."

15 I further certify that I am not interested in
16 the outcome of said matter nor connected with or related
17 to any of the parties of said matter or to their
18 respective counsel.

19 Dated this 29th day of April, 2010, at Coeur
20 d'Alene, Idaho.



KERI VEARE, Court Reporter
CSR 11220, CSR 675, CCR 3033, RPR